

Applicant : Douglas D. Sjostrom
Serial No. : 10/015,778
Filed : December 17, 2001
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Attorney's Docket No.: 00167-456001 / 02-35-0385

REMARKS

In view of the above amendments and the following remarks, reconsideration and allowance of this application are respectfully requested. Claims 1-24 are pending in this application, with claims 1 and 18 being independent. Claims 1 and 18 have been amended.

Applicant would like to thank the Examiner for the telephone discussion conducted with the Applicant's representative, Kevin Greene, on August 11, 2003, in which the Examiner and Kevin Greene discussed the IDS and amendment filed on June 20, 2003, prior to the receipt of the Final Office Action by Applicant's representatives. The Examiner indicated that he would consider the IDS when this response was received. The Examiner also indicated that the amendments filed on June 20, 2003 were not entered, but that they may overcome the art cited in the Final Office Action. As this response is being filed with an RCE, Applicant specifically requests that the amendment filed June 20, 2003 *not* be entered, but that this response and amendment take the previously unentered amendment's place. The Examiner stated, however, that he would have to more fully consider the amendments after receiving this response.

Further, the Examiner also indicated his willingness to discuss this case with Applicant's representative, prior to taking further action, in the event it is believed this amendment does not place the present case in condition for allowance. If not already arranged, Applicant asks that this response be treated as a formal request for Interview, and asks the Examiner to contact the undersigned to arrange such an interview prior to entering an Office Action.

The Examiner has rejected claims 1, 2 and 4-24 as anticipated by Pintor (U.S. 6,482,217), and claim 3 as obvious over Pintor. Applicant respectfully requests reconsideration and withdrawal of these rejections.

As amended, claim 1 is directed to a cutting instrument with an outer member having an opening at least partially bounded by a cutting edge and a helical knife coupled to the outer member for rotation relative to the outer member. The helical knife has an edge configured to slice into tissue. The edge extends through the opening.

Pintor, however, does not describe or suggest an outer member having an opening at least partially bounded by a cutting edge through which an edge of a helical knife configured to slice

into tissue extends. Referring to figure 2, Pintor describes a thrombectomy or atherectomy device that has a cutter housing 21 that contains a cutter 22. The Examiner has essentially equated cutter housing 21 with Applicant's claimed outer member and cutter 22 (including thread 46) with Applicant's claimed helical knife. The Examiner has also stated that "edge (23) [is] configured to slice into tissue." Applicant notes that atraumatic tip 23 is specifically designed *not* to slice into or otherwise cause traumatic contact with tissue. Pintor, Col. 10, Lines 45-48.

While not shown in figures 2, 6, 7 or 8A-8C, Pintor discloses that, in these embodiments, housing 21 may include stationary cutting members attached to a proximal portion of cutter housing 21 near flanges 42 of cutter 22. Pintor, Col. 9, Lines 61-66. Similarly, in the embodiment of figure 5A, Pintor discloses that retaining members 72 attached to a proximal portion of the cutter housing 70 may act as stationary cutting members. Pintor, Col. 14, Lines 37-38. However, as can be particularly seen in figures 2, 5A, 6, and 7, the portion of the cutter 22 or 60 that extends through the proximal portion of the cutter housing 21 or 70 does not have an edge configured to slice into tissue. Furthermore, while the cutter housing 21 or 70 has an opening at the distal end 52 (74 in figure 5B) of the housing through which a portion of cutter 22 or 60 having an edge configured to slice into tissue does extend, Pintor does not describe or suggest providing a cutting edge at the distal opening of the cutter housing 21 or 70.

Therefore, Applicant submits that claim 1, and claims 3-17 that depend therefrom, are allowable over Pintor.

Claim 18 is directed to a method of cutting that comprises slicing into tissue with a helical knife to draw tissue proximally toward a cutting portion, where the helical knife has a slicing edge extending through an opening at least partially bounded by the cutting portion; and cutting the tissue with the cutting portion.

As discussed above, Pintor does not describe or suggest slicing into tissue with a helical knife that has a slicing edge extending through an opening at least partially bounded by a cutting portion. Accordingly, Applicant submits that claim 18, and claims 19-22 that depend therefrom, are also patentable over Pintor for at least this reason.

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Respectfully submitted,

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